



TO: Mayor and Councilmembers

FROM: Michael Jenkins, City Attorney

CONTACT: Winnie Cai, Assistant City Attorney

SUBJECT: Urgency Ordinance Enacting a Temporary Prohibition on No-Fault Evictions

RECOMMENDATION:

Adopt Ordinance No 19-__ entitled “An Urgency Ordinance of the City Council of the City of Goleta, California, Temporarily to Prohibit No-Fault Evictions Through December 31, 2019 for Residential Real Property Built Prior to January 1, 2005 and Declaring the Urgency Thereof.”

BACKGROUND:

On October 8, 2019, Governor Newsom signed Assembly Bill 1482 (“AB 1482”), “Tenant Protections Act of 2019.” AB 1482 is designed to address a key cause of California’s affordable-housing crisis by preventing rent gouging and arbitrary evictions. AB 1482 becomes effective on January 1, 2020, establishing the strongest statewide law in the country to protect renters in non-rent stabilized housing.

Specifically, AB 1482 will, effective January 1, 2020, prohibit an owner of residential real property from, over the course of any 12-month period, increasing the gross rental rate for a dwelling unit more than 5% plus the percentage change in the cost of living, or 10%, whichever is lower, of the lowest gross rental rate charged for the immediately preceding 12 months, subject to specified conditions.

In advance of January 1, 2020, effective date of AB 1482, the City of Goleta and other cities in California have received reports of landlords evicting residential tenants in an effort to raise rents and establish a higher base rent prior to AB 1482 going into effect. Particularly troubling are reports that long-term renters, including some who have been in the same location for decades, are being displaced by landlords seeking to evict tenants in advance of the effective date of AB 1482.

Staff recommends that the City Council adopt the uncoded urgency ordinance to temporarily prohibit no-fault evictions through December 31, 2019, for residential real property built prior to January 1, 2005. By adopting this ordinance, the City seeks to

stabilize the residential rental market and increase protections for renters from no-fault evictions.

The proposed Ordinance if adopted will take effect immediately and remain in effect through December 31, 2019.

DISCUSSION:

New state law prohibits evictions without just cause and owners of residential real property from increasing rents each year by a specified amount. The proposed Ordinance seeks to protect renters from no-fault evictions through December 31, 2019 in advance of the state law's effective date to prevent rent gouging and no-cause displacement of tenants and the resulting destabilization of the housing market and potential increase of homelessness and loss of affordable housing.

FISCAL IMPACTS:

There is no fiscal impact associated with this item.

ALTERNATIVES:

The City Council may choose not to adopt the proposed urgency ordinance.


Reviewed By:


Kristine Schmidt
Assistant City Manager

Legal Review By:


Michael Jenkins
City Attorney

Approved By:


Michelle Greene
City Manager

ATTACHMENTS:

1. Ordinance No 19-__ entitled "An Urgency Ordinance of the City Council of the City of Goleta, California, Temporarily to Prohibit No-Fault Evictions Through December 31, 2019 for Residential Real Property Built Prior to January 1, 2005 and Declaring the Urgency Thereof."

Attachment 1

Ordinance No 19-__ entitled "An Urgency Ordinance of the City Council of the City of Goleta, California, Temporarily to Prohibit No-Fault Evictions Through December 31, 2019 for Residential Real Property Built Prior to January 1, 2005 and Declaring the Urgency Thereof."

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLETA
TEMPORARILY TO PROHIBIT NO-FAULT EVICTIONS THROUGH
DECEMBER 31, 2019 FOR RESIDENTIAL REAL PROPERTY BUILT
PRIOR TO JANUARY 1, 2005 AND DECLARING THE URGENCY
THEREOF**

The City Council of the City of Goleta does hereby ordain as follows:

SECTION 1. Purpose.

Assembly Bill 1482 ("AB 1482"), the Tenant Protections Act of 2019, was enacted by the State Legislature to address two key causes of California's affordable housing crisis: rent gouging and arbitrary evictions. AB 1482 was signed by the Governor and on October 8, 2019 and becomes effective on January 1, 2020.

AB 1482 can have the unintended effect of incentivizing landlords to evict long-term tenants without cause in order to raise rents before AB 1482 becomes effective. Tenants throughout the state have reported receiving no-fault eviction notices and threats of eviction since AB 1482 was signed into law. Therefore, it is imperative that the City implement temporary strategies to maintain housing stability, to protect affordable housing, to keep tenants housed and to prevent rent gouging.

This Ordinance will temporarily prohibit no-fault evictions through December 31, 2019, for residential real property that will be covered by AB 1482 beginning on January 1, 2020.

SECTION 2. Definitions.

As used in this Ordinance:

"Just cause" means:

1. Default payment in rent.
2. A breach of a material term of the lease, as described in paragraph (3) of Section 1161 of the California Code of Civil Procedure, including, but not limited to, violation of a provision of a lease after being issued a written notice to correct the violation.
3. Maintaining, committing, or permitting the maintenance or commission of a nuisance as described in paragraph (4) of Section 1161 of the California Code of Civil Procedure.
4. Criminal activity by the tenant on the residential real property, including any common areas, or any criminal activity or criminal threat, as defined in

subdivision (a) of Section 422 of the California Penal Code, on or off the residential real property against the owner of the residential real property.

5. Assigning or subletting the premises in violation of the tenant's lease, as described in paragraph (4) of Section 1161 of the California Code of Civil Procedure.
6. The tenant's refusal to allow the owner to enter the residential real property as authorized by Sections 1101.5 and 1954 of the California Civil Code, and Sections 13113.7 and 17926.1 of the California Health and Safety Code.
7. Using the premises for an unlawful purpose as described in paragraph (4) of Section 1161 of the California Code of Civil Procedure.
8. The employee, agent, or licensee's failure to vacate after their termination as an employee, agent, or a licensee as described in paragraph (1) of Section 1161 of the California Code of Civil Procedure.
9. When the tenant fails to deliver possession of the residential real property after providing the owner written notice as provided in Section 1946 of the California Civil Code of the tenant's intention to terminate the hiring of the real property, or makes a written offer to surrender that is accepted in writing by the owner, but fails to deliver possession at the time specified in that written notice as described in paragraph (5) of Section 1161 of the California Code of Civil Procedure.

"Owner" means any person, acting as principal or through an agent, offering residential real property for rent, and includes a predecessor in interest to the owner.

"Residential real property" means any dwelling or unit that is intended, or used, for human habitation for which a certificate of occupancy was issued prior to January 1, 2005.

SECTION 3. Prohibition on Evictions.

Through December 31, 2019, the owner of residential rental property shall not terminate a lawful tenancy without just cause, unless the termination is required to comply with an order issued by a government agency or court necessitating vacating the residential real property or to comport with federal, or state law, which shall be stated in the written notice of termination of tenancy. This prohibition shall also apply to an owner's action that constitutes constructive eviction under California law. An owner's failure to comply with this Ordinance shall render any notice of termination of tenancy void. This Ordinance may be asserted as an affirmative defense in an unlawful detainer action. This section does not in any way adversely affect or abrogate the rights of tenants otherwise provided in California law or otherwise.

This Ordinance shall apply to tenancies where the tenant remains in possession and the period of notice required under California Civil Code section 1946.1 has not expired.

SECTION 4. Exemptions.

This Ordinance shall not apply to any of the following residential real property or residential circumstances:

1. Transient and tourist hotel occupancy as defined in subdivision (b) of Section 1940 of the California Civil Code.
2. Housing accommodations in a nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or an adult residential facility, as defined in Chapter 6 of Division 6 of Title 22 of the Manual of Policies and Procedures published by the State Department of Social Services.
3. Housing accommodations in which the tenant shares bathroom or kitchen facilities with the owner who maintains their principal residence at the residential real property.
4. Single-family owner-occupied residences, including a residence in which the owner-occupant rents or leases no more than two units or bedrooms, including, but not limited to, an accessory dwelling unit or a junior accessory dwelling unit.
5. A duplex in which the owner occupied one of the units as the owner's principal place of residence at the beginning of the tenancy, so long as the owner continues in occupancy.
6. Housing that has been issued a certificate of occupancy after January 1, 2005.
7. Residential real property that is alienable separate from the title to any other dwelling unit, provided that the owner is not any of the following:
 - a. A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.
 - b. A corporation.
 - c. A limited liability company in which at least one member is a corporation.
8. Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code, or subject to an agreement that provides housing subsidies for affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code.

Code or comparable federal statutes.

SECTION 5. Severability.

If any provision of this Ordinance is declared to be invalid by a court of competent jurisdiction, it shall not affect any remaining provision hereof. The City Council of the City of Goleta hereby declares that it would have adopted this uncoded Ordinance despite any partial invalidity of its provisions.

SECTION 6. CEQA.

The City Council finds that adoption and implementation of this Ordinance is not a "project" for purposes of the California Environmental Quality Act ("CEQA"), as that term is defined by CEQA guidelines ("Guidelines") sections 15061(b)(3), and 15378(b)(5). The effect of the proposed amendment will be to maintain the status quo. No new development will result from the proposed action. No impact to the physical environment will result.

The City Council also alternatively finds that the adoption and implementation of this ordinance is exempt from the provisions of CEQA as an administrative activity by the City of Goleta, in furtherance of its police power, that will not result in any direct or indirect physical change in the environment, per sections 15061(b)(3), and 15378(b)(5) of the CEQA Guidelines, as well as CEQA Guidelines section 15064(e) (economic regulations).

SECTION 7. Penalty.

Violation of any provision of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine not to exceed \$1,000 or by imprisonment in County jail for not to exceed six (6) months, or by both such fine and imprisonment. Each and every day such a violation exists shall constitute a separate and distinct violation of this Ordinance. In addition to the foregoing, any violation of this Ordinances shall constitute a public nuisance and shall be subject to abatement as provided by all applicable provisions of law.

SECTION 8. Urgency Declaration, Effective Date.

The City Council finds and declares that the adoption of this Ordinance is necessary for the immediate preservation and protection of the public peace, health and safety as detailed above and as the City and public would suffer potentially irreversible displacement of tenants resulting from no-fault evictions during the period before AB 1482 becomes effective, including destabilizing housing, displacement of long-time tenants, loss of affordable housing, and increased homelessness. The Council therefore finds and determines that the immediate preservation of the public peace, health and safety requires that this Ordinance be enacted as an urgency ordinance pursuant to Government Code Section 36937 and take effect immediately upon adoption by four-fifths of the City Council.

SECTION 9. Certification of City Clerk.

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published or posted in the manner required by law.

PASSED, APPROVED, AND ADOPTED this 17th December 2019.

PAULA PEROTTE
MAYOR

ATTEST:

APPROVED AS TO FORM:

DEBORAH S. LOPEZ
CITY CLERK

MICHAEL JENKINS
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF GOLETA)

I, DEBORAH S. LOPEZ, City Clerk of the City of Goleta, California, do hereby certify that the foregoing Ordinance No. 19-__ Adopted at a regular meeting of the City Council of the City of Goleta, California, held on the 17th day of December 2019, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

(SEAL)

DEBORAH S. LOPEZ
CITY CLERK